

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013100426

ORDER GRANTING FOURTH  
REQUEST FOR CONTINUANCE [NO  
FURTHER] AND SETTING  
PREHEARING CONFERENCE AND  
HEARING

On March 24, 2014, Student filed a fourth continuance request to continue the hearing on the ground that Student had a seizure disorder requiring possible surgery, such that Student's Mother could not participate in the hearing. District was not consulted prior to the request, but did not file an opposition.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, further continuances are not contemplated for any reason given the age of this case and the issues alleged. While Student's medical condition is unfortunate, and Mother's inability to participate in the near future is understandable, the matter will have been pending for eight months by the time of hearing. This is an unusually long time for a matter to remain open without going to hearing, and in this case, the allegations concern the period prior to a June of 2010 IEP, and arguments concerning the application of the IDEA's two year statute of limitations. By granting this final continuance, the evidence will concern a time period over four years before the hearing date. Although Mother has a right to be present at all times, her participation on all hearing days is not required by the IDEA where Mother is otherwise represented by an attorney and the issues do not concern Student's current needs. Although a prehearing conference has been held, an additional prehearing conference will be set to address any changes that may have arisen during the continuance period. This matter will be set as follows:

Mediation:	Held.
Prehearing Conference:	June 9, 2014 at 1:00 PM
Due Process Hearing:	June 16-19, 2014 at 1:30 PM first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 28, 2014

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/s/  
RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings